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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ALABAMA  
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 CR-03-BE-530-S

6 v. Birmingham, Alabama

7 RICHARD M. SCRUSHY, March 3, 2005

8  
9 Defendant.

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12 TRANSCRIPT OF TRIAL  
13 BEFORE THE HONORABLE KARON O. BOWDRE  
14 UNITED STATES DISTRICT JUDGE, and jury.

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17 VOLUME XXIV

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1 of years before to Integrated Health, because we  
2 didn't want to be in that business.

3 So I wasn't so sure, and I think even  
4 Mr. Scrushy wasn't so sure that that was  
5 strategically the best move.

6 MR. LEACH: Objection, Your Honor, to  
7 Mr. Scrushy's knowledge.

8 THE COURT: Sustained.

9 A. I'm sorry. At any rate, it was -- I did  
10 not believe it was a strategic move for the  
11 company, a good strategic move for the company.

12 So, I enlisted Bill McGahan, who was  
13 our investment banker at that time, to assist me  
14 in talking Mr. Scrushy out of doing the  
15 transaction based on the fact that it was not a  
16 good strategic fit. It didn't really fit with the  
17 HealthSouth business.

18 Q. Tell us how -- how did you get Mr. McGahan  
19 to help you speak with the defendant about this  
20 transaction?

21 A. We were continuing to negotiate with  
22 Mr. Ormand. And our price -- our stock price had  
23 gone down, and their stock price had gone up, and  
24 it was really not even making good sense in black  
25 and white on paper.

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1 But Mr. Scrushy wanted to talk to me  
2 about it. I got a call from Mr. Scrushy. He was  
3 at his lake house, and he told me that he wanted  
4 McGahan and I to come down to his lake house to  
5 discuss whether or not we should do this.

6 Q. Did you and Mr. McGahan travel down to the  
7 defendant's lake house?

8 A. Yes.

9 Q. Do you recall where his lake house is  
10 located?

11 A. It's at Lake Martin.

12 Q. Do you recall when you and Mr. McGahan  
13 traveled to Mr. Scrushy's lake house to talk with  
14 him?

15 A. It was sometime in early June of 1999.

16 Q. Tell us how you and Mr. McGahan travel down  
17 to meet with Mr. Scrushy?

18 A. Mr. McGahan was in New York that morning  
19 when I got the call from Mr. Scrushy telling us to  
20 come down and see him. So I met Mr. McGahan at  
21 the airport, and then we took one of HealthSouth's  
22 planes down to Lake Martin.

23 Q. Did you have any conversation with  
24 Mr. McGahan while you were traveling from  
25 Birmingham down to Lake Martin?

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1 A. Yes. I told Mr. McGahan that he had to  
2 help me talk Mr. Scrushy out of this, because we  
3 were not making our numbers. We were missing our  
4 numbers by over three hundred million dollars at  
5 that point or more. And I told him that, if we  
6 did this transaction, that we would all go to  
7 jail.

8 Q. Did you and Mr. McGahan meet with the  
9 defendant to talk about the proposed merger with  
10 Manorcare?

11 A. Yes, sir, we did.

12 Q. Was there a conversation between you and  
13 the defendant with Mr. McGahan being present?

14 A. Yes. And the conversation with Mr. McGahan  
15 being present centered around the strategic issues  
16 with the merger. Mr. McGahan was not about to  
17 bring up the fraud with Mr. Scrushy.

18 MR. LEACH: Objection, Your Honor.

19 THE COURT: Sustained.

20 Q. Just tell us what you told the defendant  
21 while Mr. McGahan was present and what the  
22 defendant said to you during that conversation.

23 A. I told the defendant I didn't think we  
24 needed to do the transaction based on the fact  
25 that we would be getting back into the nursing

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1 home business, and I didn't think it was a good

2 strategic move for HealthSouth.

3 Q. What, if anything, did the defendant say

4 back to you, if you recall?

5 A. When Mr. McGahan was present or --

6 Q. While he was present first.

7 A. He continued to think it was a good

8 transaction, and he was continuing to want to go

9 forward with it.

10 Q. Did there come a time when Mr. McGahan left

11 the conversation?

12 A. Yes.

13 Q. Did you and Mr. Scrushy have additional

14 conversation without Mr. McGahan being present?

15 A. We did.

16 Q. Can you please tell us what you said and

17 what the defendant said when Mr. McGahan was not

18 present?

19 A. I told Mr. Scrushy that if we go through

20 with this transaction, that the fraud would be

21 exposed. And I said the "fraud" (indicating).

22 Never before had I used that word "fraud."

23 And Mr. Scrushy, at that point, realized

24 that we didn't need to do it if I felt like --

25 MR. LEACH: Objection to realized, Your

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1 Honor.

2 THE COURT: Sustained.

3 Q. After you told Mr. Scrushy that the fraud  
4 would be exposed, did you all proceed with the  
5 transaction?

6 A. No, sir.

7 Q. Did the defendant ask you any questions  
8 after you told him that the fraud would be exposed  
9 and the deal was not going to take place?

10 A. Mr. Scrushy, because of the fact that  
11 McGahan was nearby, said, did you tell Bill, Bill  
12 McGahan? And I said, yeah, I told him, but he  
13 won't tell anybody because he has as much to lose  
14 as we do.

15 Q. What were you talking about when you said  
16 yeah, I told Mr. McGahan, but he won't say  
17 anything?

18 A. I was talking about the fraud.

19 Q. Was there another alternative on the table  
20 at the same time while you were considering  
21 Manorcare? Was HealthSouth considering doing  
22 anything else?

23 A. Yes, sir. We had left on the table the  
24 alternative to split the company into two pieces  
25 that we were looking at back in 1998.